

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

CENTER FOR EXCELLENCE IN HIGHER	)	
EDUCATION, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 22-1732C
	)	
THE UNITED STATES,	)	(Senior Judge Smith)
	)	
Defendant.	)	

DEFENDANT'S MOTION FOR AN ENLARGEMENT OF TIME

Defendant, the United States, respectfully requests that the Court grant our motion for an enlargement of time of 30 days, to and including March 24, 2023, within which to file a response to the complaint. The current deadline is February 22, 2023. This is our second request for an enlargement of time for this purpose, the Court having granted an enlargement of time of 30 days. Counsel for plaintiff, Center for Excellence in Higher Education, Inc. (CEHE). has not responded to repeated inquiries about whether CEHE opposes this motion.

Our motion is supported by good cause. Since the middle of January, counsel for the United States has conducted extensive legal research and some factual research in this case. He has reviewed dozens of cases, several statutes (starting with the National Defense Education Act of 1958), the legislative history associated with those statutes, CEHE's complaint in this case (259 paragraphs), the 23 documents attached to the complaint, a complaint filed by CEHE in the United States District Court for the District of Utah in 2016 challenging an administrative decision by the Department of Education (Education) concerning CEHE's application for four program participation agreements, 18 documents attached to the Utah complaint, four temporary provisional program participation agreements issued in 2013, four provisional program

participation agreements issued in 2018, three provisional program participation agreements issued in 2020, many regulations, Federal Register notices, and various other documents.

Counsel has drafted the statement of facts for a motion to dismiss, and, in the alternative, motion for summary judgment upon the grounds that CEHE cannot demonstrate the necessary elements of any claim within the jurisdiction of this Court. Counsel is prepared to write certain portions of the argument section of that motion, but additional research will be required on the topics of Fifth Amendment taking, illegal exaction, and fiduciary law.

The full enlargement of time requested is needed. Counsel is due to answer the complaint in *Utility Construction Company, Inc. v. United States*, No. 22-860C (Fed. Cl.) by February 23, 2023 – though counsel may be required to seek an enlargement of another week before making that filing. Counsel will be on leave with his family from March 3, 2023 until March 13, 2023. Counsel is due to answer the complaint in *Eric Mote v. United States*, No. 23-84C (Fed. Cl.) by March 24, 2023. In addition, time is needed in this case to complete the legal research for the motion to dismiss, to complete preparation of the draft motion, and for review of the draft motion by agency counsel and supervisors at the Department of Justice.

For the reasons set forth above, we respectfully request that our motion for an enlargement of time be granted.

Respectfully submitted,

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